REMARKS

Claims 1-12 are pending in the application. Claims 1-12 have been rejected.

The drawings stand objected to based upon certain informalities. The drawings have been amended to address most of these objections. No new matter has been added. It is noted that references characters 1214, 1224, 1234, 1254 and 1248 have not been changed as each of these steps represent a don not evaluate carrier service step that is entered from a different location within the flow chart shown on Figure 12.

The specification stands objected to based upon certain informalities. The specification has been amended to address these informalities. No new matter has been added.

Claims 1-12 stand rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1-3, 11, 14-16, 24, 27-29 and 37 of Jones et al. A Terminal Disclaimer is filed herewith to overcome this rejection.

Claims 1-12 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicants have amended the claims pursuant to the examiner's suggestions to overcome this rejection.

Claims 9-12 stand rejected under 35 U.S.C. § 101 as directed toward non-statutory subject matter. More specifically, the examiner set forth:

> The claimed invention of an apparatus comprising modules does not fall into one of the four categories of patent eligible subject matter recited in 35 U.S.C. 101 (process, machine, article of manufacture or composition of matter). Modules are not clearly defined in the specification, and the standard definition of module ranges from a unit of measurement, to a portion of code in a program, to a standardized component of a system. It is unclear whether the application is trying to claim a computer program, in which case it should be claimed as a program product stored on a computer readable medium, or if applicant is seeking to claim a machine. However, a clearer definition of module alone would not place the claimed invention in one of the statutory categories. A proper machine claim is defined by its parts rather than what it is capable of doing, the exception being if the applicant involved U.S.C. 112, sixth paragraph. A proper program

product claim is defined by the processes it performs when executed on a computer (Office Action dated 01/18/2009, Page 8).

This rejection is respectfully traversed. Modules are discussed within the specification starting at Page 28, lines 26. Additionally, the claims have been amended to claim a program product stored on a computer readable medium.

Claims 1-3, 5-7, and 9-11 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Lubash et al., U.S. Patent Publication 2003/0139952 A1 (Lubash). Claims 4, 8 and 12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lubash. These rejections are respectfully traversed.

Claims 1 – 12 are allowable over Lubash

The present invention generally relates to providing a cost advantage to a manufacturer by moving product via a lower cost shipping method as if the order were shipped via an expedited shipping method. The system identifies and schedules customer orders via a planning system based upon destination and predetermined shipping times. The system also includes a carrier selection module that is dynamic and considers the time of day that a product is shipping and alters a carrier selection accordingly. The manufacturer uses an outbound transportation network of existing carriers to execute the shipping schedule. The system includes a synchronized production portion as well as a dynamic logistics routing portion. Such a system enables the satisfaction of customer fulfillment desires at a lower cost to the manufacturer.

More specially, the present invention, as set forth by independent claim 1 relates to a method for scheduling work and delivery of material for items in a factory which includes obtaining a customer order, determining a current state of an available inventory of material from a plurality of material sources, generating a material request plan for producing the item using the customer order and the current state of the available inventory and executing the material request plan. The customer order includes an item ordered by a customer and the item has an associated quantity of a material to produce. The customer order also includes a desired shipping schedule. The generation of a material request plan includes scheduling the customer order based upon the desired shipping schedule. The execution of the material request plan takes into account the desired shipping schedule. The scheduling of the customer order and taking into

account the desired shipping schedule enables shipping the item via a lower cost shipping method as if the order were shipped via an expedited shipping method.

The present invention, as set forth by independent claim 5 relates to a system for scheduling work and delivery of material for items in a factory which includes means for obtaining a customer order, means for determining a current state of an available inventory of material from a plurality of material sources, means for generating a material request plan for producing the item using the customer order and the current state of the available inventory, and means for executing the material request plan. The customer order includes an item ordered by a customer, the item having an associated quantity of a material to produce. The means for executing the material request plan includes means for netting deliveries of material with planned requests for material during the executing of the material request plan. The scheduling of the customer order and taking into account the desired shipping schedule enables shipping the item via a lower cost shipping method as if the order were shipped via an expedited shipping method.

The present invention, as set forth by independent claim 9 relates to a program product stored on a computer readable medium for scheduling work and delivery of material for items in a factory. The program product includes an obtaining module, a determining module, a generating module and a plan execution module. The obtaining module obtains a customer order. The customer order includes an item ordered by a customer, the item having an associated quantity of a material to produce. The determining module determines a current state of an available inventory of material from a plurality of material sources. The generating module generates a material request plan for producing the item using the customer order and the current state of the available inventory. The plan execution module executes the material request plan. The plan execution module includes a netting module. The netting module nets deliveries of material with planned requests for material during the executing of the material request plan. The scheduling of the customer order and taking into account the desired shipping schedule, enables shipping the item via a lower cost shipping method as if the order were shipped via an expedited shipping method.

Lubash discloses a complexity management and production optimization system for use within a manufacturing facility. The system includes having a computer system, data acquisition assemblies, and a notification assembly. The computer creates a dynamically modifiable schedule based on unique input variables and available resources such as customer orders and the data received from the data acquisition assemblies. The system communicates any modification to the production schedule to the appropriate production facility employees via a notification assembly.

When setting forth that Lubash discloses executing a material request plan that takes into account a desired shipping schedule, the examiner cites to the following portions of Lubash:

> During the production process, the computer system 28 continuously and/or periodically monitors the inventory levels of the material and components 62 within the production facility 12 in order to periodically and/or continuously ensure that sufficient amounts of materials and components 62 remain within the facility 12 in order to allow the production schedule to be desirably accomplished (Lubash, ¶0029, lines 1–7); and

> The present invention also can be used to develop an optimized shipping schedule involving unique input variables such as required payload size, delivery due dates, types of material being shipped as well as the available resources such as availability of multiple trucks and trained operators (Lubash, ¶0015, lines 15–19).

However, Lubash does not teach or suggest a method for scheduling work and delivery of material for items in a factory which includes generating a material request plan for producing the item using the customer order and the current state of the available inventory and executing the material request plan, much less such a method where the generation of a material request plan includes scheduling the customer order based upon the desired shipping schedule, and the execution of the material request plan takes into account the desired shipping schedule, much less where the scheduling of the customer order and taking into account the desired shipping schedule enables shipping the item via a lower cost shipping method as if the order were shipped via an expedited shipping method, all as required by claim 1 and as substantially required by claims 5 and 9. Accordingly, claims 1, 5 and 9 are allowable over Lubash. Claims 2-4 depend from claim 1 and are allowable for at least this reason. Claims 6-8 depend from claim 5 and are allowable for at least this reason. Accordingly, claim 9 is allowable over Lubash. Claims 10-12 depend from claim 9 and are allowable for at least this reason.

CONCLUSION

In view of the amendments and remarks set forth herein, the application is believed to be in condition for allowance and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the examiner is requested to telephone the undersigned.

The Commissioner is authorized to deduct any additional fees that may be necessary and to credit any overpayment to Deposit Account No. 502264.

I hereby certify that this correspondence is being electronically submitted to the COMMISSIONER FOR PATENTS via EFS on April 17, 2008.

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Respectfully submitted,

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